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Dated: May 5, 2006

Signature:

Cindy Guido
(Cindy Guido)

Docket No.: 559552000100
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tae-ahn JAHNG

Application No.: 10/728,566

Confirmation No.: 8922

Filed: December 5, 2003

Art Unit: 3733

For: A METHOD AND APPARATUS FOR
FLEXIBLE FIXATION OF A SPINE

Examiner: J. Kim

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the restriction requirement set forth in the Office Action mailed March 7, 2006, for which a response was due on April 7, 2006. Filed herewith is a Petition and fee for a one-month extension of time, thereby extending the deadline for response to May 7, 2006. Accordingly, this response is timely filed.

Examiner's Restriction

Claims 1-43 are pending in this application. The Examiner has required restriction between the following allegedly distinct groups of inventions under 35 U.S.C. § 121:

Group I (claims 1-23): drawn to spinal fixation device, classified in class 606, subclass 61;

Group II (claims 24-42): drawn to flexible connection unit, classified in class 403, subclass 52; and

Group III (claim 43): drawn to pedicle screw, classified in class 606, subclass 73.

Additionally, the Examiner alleges that there are twenty-three patentably distinct species corresponding to each separate figure of the application. The Examiner has required that Applicant elect a single alleged species corresponding to one figure for prosecution on the merits.

Election of Claims

Applicant hereby provisionally elects claim 39 and withdraws claims 40-42 with traverse. Applicant cancels all other claims without traverse and without prejudice. Applicant expressly reserves the right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application. Applicant respectfully requests examination of the elected subject matter on the merits.

The Alleged Species Represented by Figures 12a, 12b and 12c Should be Examined Together

Applicant respectfully requests reconsideration and modification of the restriction requirement. The Examiner alleges that figures 12a, 12b and 12c should be examined separately. Applicant respectfully disagrees. Applicant notes figures 12b and 12c are merely different views of the flexible connection unit portrayed in figure 12a (see paragraphs [0033]-[0035] in the published